

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

PRESTON WOOD & ASSOCIATES, LLC,)
)
Plaintiff,) NO. H-16-CV-1427
)
v.) August 30, 2018
)
CAMERON ARCHITECTS, INC.,)
STEPHEN CAMERON, UL, INC., d/b/a)
URBAN LIVING, and VINOD RAMANI)
)
Defendants.)

TRIAL
BEFORE THE HONORABLE DAVID HITTNER
AND A JURY

VOLUME 7 of 7
PAGES 7-1 to 7-17

For the Plaintiff: Louis K. Bonham
Califf T. Cooper
Osha Liang, LLP
909 Fannin, Suite 3500
Houston, TX 77010

For the Defendants: Justin Strother
Strother Law Firm, PLLC
3000 Weslayan, Suite 348
Houston, TX 77027

Court Reporter: Bruce Slavin, RPR, CMR

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1 THE COURT: On the record.

2 We have Jury Note No. 5: "We have reached a
3 partial verdict."

4 What's the Plaintiff's position?

11:40 5 MR. BONHAM: Do we know what issues they have
6 reached a partial verdict or are they still just hung up on
7 Stanford?

8 THE COURT: I have no idea.

9 MR. STROTHER: Your Honor, I would propose the
11:40 10 Court inquiring as to what does this mean so you can further
11 direct them.

12 MR. BONHAM: Again, if it's just on Stanford, as we
13 talked about yesterday, the last thing we want to do is hang
14 this thing up over a fairly small issue.

11:41 15 THE COURT: All right. I am going to issue one
16 order at this time and say, "Please continue your
17 deliberations." That's all they're going to get at this
18 time.

19 If they come back and say, 'We can't go any
11:41 20 further,' then I will consider your input vis-à-vis an *Allen*
21 charge or something else at that time. But I want them to
22 go back --

23 And, Ellen, you can say -- if they want a
24 clarification, just say, you know, 'Do the best you can on
11:41 25 what's left.' That's all I want.

1 But I think the easiest thing right now is to
2 say, "Please continue your deliberations," and they'll get
3 that message. And then, if we get another one, we can start
4 taking a little more -- jumping into it a little more.

11:41 5 Any objection by the Plaintiff?

6 MR. BONHAM: No, sir.

7 THE COURT: Any objection by the defense?

8 MR. STROTHER: No, Your Honor.

9 THE COURT: All right. Off the record.

11:42 10 (Recess)

11 THE COURT: Let's get on the record, please.

12 All right. We have Jury Note No. 5. Is this
13 No. 5? I guess that is --

14 CASE MANAGER: 3 and 4, Judge, they withdrew.

13:33 15 THE COURT: 3 and 4 they withdrew.

16 "We have reached an impasse on the following
17 questions (since yesterday morning). Stanford project" --
18 which is -- "Stanford project," which is on Question 1.
19 Question 9, "Stanford, Patterson and EaDo. Due to the
13:33 20 deadlock, we are unable to answer Question 10 in regards to
21 Stanford, Patterson and EaDo. All other questions are
22 unanimously agreed upon."

23 What's the Plaintiff's position?

24 MR. BONHAM: Given that they have been hung up
13:33 25 since yesterday on Stanford and it's only --

1 THE COURT: It's not just Stanford they're hung up.

2 MR. BONHAM: Well, initially, they're hung up on
3 Stanford as far as infringement, and then they're also hung
4 up on the DMCA on Stanford, Patterson and EaDo.

13:34 5 THE COURT: He's not sure.

6 What about the Defendant?

7 MR. STROTHER: I'm looking at it as being outside
8 of my area of "influence" or some other word. I don't know
9 that I have a position.

13:34 10 THE COURT: Hold it. Then, you've got my position.

11 MR. STROTHER: Yes, Your Honor.

12 THE COURT: I am going to give you additional
13 summation on those points. You're restricted to those
14 points.

13:34 15 How much time does the Plaintiff want for
16 additional summation? You've got it. You tell me how much
17 time you want.

18 MR. BONHAM: Five minutes.

19 MR. STROTHER: Five minutes is fine.

13:34 20 THE COURT: No way. No way. I am giving each side
21 15 minutes. You don't have to take it all. I am giving
22 each side 15 minutes. You can reserve a little bit just
23 like --

24 Ellen, tell the jury we'll get back in at
13:34 25 1:40.

1 Sit down. Start making notes. You get a copy
2 of your charge. Tell the jury to be ready to come back in
3 with their charge at 1:45. I've got a criminal matter
4 coming in. We'll call them when it's time to come in. It
13:35 5 will be about 1:15 to 1:20. Give each side 20, 40. You
6 don't have to take all your time. Start putting all your
7 ideas together. We'll be back with you in about, oh, eight
8 minutes.

9 CASE MANAGER: Did you say 1:40?

13:35 10 THE COURT: I said 1:40 -- Wait. Yeah. That's
11 about seven minutes. Put your ideas together. I tell you
12 what. Hold it. We'll get back in at 1:45. Get your ideas
13 together and I will keep time.

14 We'll see you back at 1:45.

13:42 15 (Brief recess)

16 THE COURT: Do you want to get something on the
17 record?

18 MR. BONHAM: Sure, Your Honor. Again, it was very
19 close. I was hesitant to do this until I heard from my
13:42 20 co-counsel. I now have.

21 We will withdraw our claims on Question 1 on
22 Stanford and on EaDo, Stanford and Patterson on, you know,
23 Questions 9 and 10, which should mean we're --

24 THE COURT: All right. Let's take a look at the
13:42 25 jury charge.

1 Let's see. So, how do we craft No. 1 or do
2 we -- This is Instruction 1. What page is Question No. 1
3 on? What page? Page 33?

4 MR. STROTHER: Yes, Your Honor.

13:43 5 THE COURT: All right. 33.

6 Now, they say Stanford projects, No. 1. So,
7 they can't answer No. 1 as to the Stanford project.
8 Correct?

9 MR. BONHAM: Correct.

13:43 10 THE COURT: The next thing is let's look at
11 Question No. 9.

12 MR. STROTHER: Your Honor, that is Page 41.

13 THE COURT: Page 41. I am on Page 41. "Disregard
14 the necessity to answer anything for Patterson Street,
13:44 15 Stanford Street or EaDo Place." Correct?

16 MR. BONHAM: That is correct.

17 THE COURT: All right. Then we tell them, what, to
18 move on to No. 10?

19 MR. BONHAM: Well, 10 they said -- I think if they
13:44 20 were hung up on 9 and they couldn't answer Patterson,
21 Stanford and EaDo on 10 -- If it's withdrawn as to 9, it
22 becomes moot on 10. Because you only answer -- 10 is
23 conditioned.

24 THE COURT: Well, 9 they could answer "Yes" as to
13:44 25 Nagle Place, right, or "No" as to Nagle Place?

1 MR. BONHAM: Correct. That's what I am saying. If
2 they're saying they have answered everything else except for
3 Patterson, Stanford and EaDo on 9.

4 THE COURT: All right. Let's dictate this out. I
13:45 5 am going to dictate this out on a separate piece of paper
6 and then I will write it on here. Okay?

7 Let's look at Question No. 1. Question 1.
8 "Stanford" blank. "Stanford" what? Stanford --

9 MR. BONHAM: It says "Stanford Street Landing".

10 THE COURT: "Stanford Street Landing". "Question 1
11 as to Stanford Street Landing is withdrawn." Right?

12 MR. BONHAM: That is correct, Your Honor.

13 THE COURT: "Withdrawn".

14 And, Ellen, you can tell them that means they
13:46 15 don't have to answer it. Okay? I am going to write this
16 down separately.

17 Now, the next thing is look at No. 9.

18 "Question 9 as to..." what? Patterson, Stanford and EaDo.

19 MR. BONHAM: Yes, Your Honor.

13:46 20 THE COURT: "...as to Patterson, Stanford and EaDo
21 withdrawn."

22 MR. BONHAM: That is correct, Your Honor.

23 THE COURT: And that's all we need to tell them.
24 Correct?

13:47 25 MR. BONHAM: I think so. They're saying they have

1 reached agreement on everything else. So...

2 THE COURT: Then they can go on to 10.

3 MR. STROTHER: Yeah. Your Honor, I am wondering if
4 it would be useful to tell them they also don't need to
13:47 5 answer 10 with regard to those three just so they're not
6 confused.

7 THE COURT: "Question as to Patterson, EaDo
8 withdrawn" and then "No need to consider..." Right?

9 MR. BONHAM: Correct.

13:47 10 THE COURT: "...consider Patterson, Stanford and
11 EaDo on Question 10." Is that correct?

12 MR. BONHAM: That is correct.

13 MR. STROTHER: That is correct.

14 THE COURT: I am going to write it on here.
13:47 15 "Question No. 1 as to Stanford Street Landing is withdrawn.
16 Question No. 9 as to Patterson, Stanford and EaDo withdrawn.
17 No need to consider Patterson, Stanford and EaDo on
18 Question 10."

19 MR. BONHAM: That is correct. And correct.

13:47 20 MR. STROTHER: Yes, Your Honor.

21 THE COURT: Have a seat and then let me write this
22 out.

23 MR. BONHAM: Your Honor, while you're doing this
24 may I text my co-counsel as to what we're doing?

13:48 25 THE COURT: I'm not changing it.

1 MR. BONHAM: Never mind -- No. No. No. I am just
2 wanting to advise --

3 THE COURT: You can advise him whatever you want,
4 but I am not changing it.

13:48 5 MR. BONHAM: I just want to use my cell phone in
6 the courtroom.

7 THE COURT: I am going to show this to you --
8 okay? -- before I sign it and send it back. See if this
9 comports to what we have just said. Okay?

13:50 10 (Counsel review Court's proposed reply)

11 MR. STROTHER: Yes, Your Honor.

12 MR. BONHAM: It does.

13 THE COURT: Both sides agree? All right. Let me
14 sign it. That's being sent now in to the jury.

13:51 15 I have got a criminal matter coming at
16 one o'clock. We're going to go off the record.

17 (Recess)

18 THE COURT: I now have 2:16 on my clock. We will
19 take the verdict. We have a decision from the jury. We
14:18 20 have a verdict. We will take that at 2:25. We'll take it
21 in about ten minutes from now and we can wrap it up.

22 Okay. That's all we have right now.

23 (Brief recess)

24 (Jury present)

14:40 25 THE COURT: Be seated, please.

1 Mr. , I see where you're the presiding
2 juror. I ask you two questions:

3 No. 1, has the jury reached a verdict?

4 JURY FOREPERSON: Yes, we have, Your Honor.

14:40 5 THE COURT: Is it a unanimous verdict?

6 JURY FOREPERSON: Yes.

7 THE COURT: Would you hand it to the marshal,
8 please.

9 All right. "Question No. 1: Did Urban Living
14:40 10 infringe the copyrights of Preston Wood & Associates?"
11 That's Question No. 1 on Page 33.

12 "Nagle Park: Yes.

13 "Patterson Street Landing: Yes.

14 "Stanford Street Landing: Withdrawn.

14:41 15 "EaDo Place: Yes.

16 "Mount Vernon: Yes.

17 "Question No. 2. Did Urban Living
18 contributorily infringe the copyrights of Preston Wood &
19 Associates? Answer 'Yes' or 'No'..."

14:41 20 "Nagle Park: Yes.

21 "Patterson Landing: Yes.

22 "Stanford Street: Yes.

23 "EaDo Place: Yes.

24 "Mount Vernon: Yes.

14:41 25 "Question No. 3. Did Cameron Architects

1 infringe...?"

2 As to Nagle Park: Yes.

3 As to Mount Vernon: Yes.

4 "Did Cameron Architects contributorily

14:41 5 infringe the copyrights...?" This is Question No. 4.

6 Nagle Park: Yes.

7 Mount Vernon: Yes.

8 Question No. 5. There are lots of figures in
9 here. I will just read them out.

14:42 10 "Answer in dollars and cents as to each."

11 Nagle Park -- I am going to read numbers with
12 a comma -- All right.

13 Nagle Park: Gross revenues, \$68,045.00.

14 Deductible expenses, \$2,829.75.

14:42 15 As to Patterson Street: \$147,380 as to gross
16 revenues. The next column, deductible, \$7,369.

17 Stanford Street: Gross revenue, \$44,370.

18 Deductible expenses, \$2,218.

19 EaDo Place: Gross revenue, \$259,540.

14:43 20 Deductible expenses, \$12,977.

21 As to Mount Vernon: Gross revenue, \$3,439.50.

22 Deductible expenses, zero.

23 No. 6. "For each project for which you found

24 Urban Living infringed or contributorily infringed...what

14:43 25 percentage, if any, of Urban Living's profits were

1 attributable to factors other than the copyrighted work?"

2 Nagle Park: 97 percent.

3 Patterson Street: 99.5 percent.

4 Stanford Street: 99.5 percent.

14:44 5 EaDo Place: 99.5 percent.

6 Mount Vernon: Zero.

7 That's Question No. 6.

8 "Question No. 7. For each project for which

9 you found that Cameron...infringed...what were Cameron

14:44 10 Architect's gross revenues and deductible expenses...?"

11 Nagle Park: \$22,900 in gross revenues.

12 Deductible expenses, \$12,788.11.

13 As to Mount Vernon: Gross revenues, \$6,879.

14 Deductible expenses, \$3,439.50.

14:44 15 "Question 8. For each project for which you
16 have found Cameron Architects infringed...what percentage,
17 if any, of Cameron Architects' profits were attributable to
18 factors other than the copyrighted work?"

19 Nagle Park: Zero.

14:45 20 Mount Vernon: Zero.

21 No. 9. "Did Urban Living knowingly or
22 intentionally with the intent to induce" -- That's Question
23 No. 9 relative to management information that had been
24 altered or removed. Question No. 9.

14:45 25 Nagle Park: Yes.

1 Patterson Street: Withdrawn.

2 Stanford Street: Withdrawn.

3 EaDo Place: Withdrawn.

4 "For each project on which you answered 'Yes'

14:45 5 on No. 9, how many times did Urban Living do so?" --

6 relative to number of violations.

7 Nagle Park: 11,516.

8 Patterson is withdrawn, Stanford is withdrawn

9 and EaDo Place is withdrawn.

14:46 10 And I look at the last page and it has been

11 signed by the presiding juror and dated.

12 Ladies and gentlemen of the jury, this needs
13 to be a unanimous verdict. If this was not your verdict as
14 I just read, please raise your right hand.

14:46 15 Let the record reflect that no hands were

16 raised.

17 I now accept this as a unanimous verdict and
18 order it filed in the records of this case.

19 On behalf of myself and the attorneys, I want
14:46 20 to thank you for your service. It was a short case, but,
21 boy, it sure had a lot to it, I am telling you, in my own
22 experience and, certainly, I assume in yours, not being, you
23 know, used to dealing with copyrights.

24 But it was interesting. We found out about

14:46 25 how one profession earns its living and some of the industry

1 around the building professions.

2 So, we want to thank you for your service.

3 This now completes your jury service. You may now discuss

4 this case in as much or as little detail with anyone you

14:47 5 want, but what I have done since I have been in federal
6 court:

7 If anybody relative to this case contacts you,

8 I am telling you they may not, because this is the procedure
9 you work on.

14:47 10 If you want to visit with the jury, you make a
11 request in writing to the case manager. I will then decide
12 if they can do it or not. If I decide that they may speak
13 with you, then I will send you a letter. It won't have the
14 address. I will send you the letter stating that the
14:47 15 lawyers or the lawyer desires to visit with you. If you
16 want to, you call them. So, nobody is going to call you
17 directly.

18 So, that's what I do in all of my cases. I
19 don't outrightly -- I don't prohibit it outrightly, but what
14:47 20 I do is I have them ask me. Assuming I agree with it, I
21 then send you a letter and then you do it if you want to.

22 We can't do it without -- we can't have the
23 whole jury system without cooperation of the community.

24 Okay? I am always amazed and I am always pleased with the
14:48 25 jury system. I think it does work. It's interesting.

1 Sometimes -- maybe not on this case -- I come
2 back in and visit with you and say, well, I understand how
3 they got there.

4 So, it's always informative. I have always
14:48 5 visited with jurors.

6 As I mentioned, I have got my notes with me
7 and I will come back in and visit with you about this case
8 in less than five minutes after we adjourn.

9 But, in any event, as far as this is
14:48 10 concerned, your duty here in the courtroom, with our
11 appreciation, is completed.

12 Thank you and you may return to the jury room.

13 (Jury not present)

14 THE COURT: I will say this to the attorneys and
14:49 15 pass it on to your colleagues. It was a real professional
16 job that you did. It was an interesting case.

17 We got a jury verdict, but now what you do
18 with it at this point, that's up to you and the parties.
19 Hopefully, you can now settle it out. If you can't, at
14:49 20 least you have got a verdict.

21 All right. Thank you and we'll adjourn.

22 MR. BONHAM: Thank you, Your Honor.

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COURT REPORTER'S CERTIFICATE

I, BRUCE SLAVIN, certify that the foregoing is a
correct transcript from the record of proceedings in the
above entitled matter, to the best of my ability.

s/Bruce Slavin
BRUCE SLAVIN, RPR, CMR